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Court File No.: T-1365-20

FEDERAL COURT

PROPOSED CLASS PROCEEDING

BETWEEN:

TOPHER'S BEARD COMPANY

101

FEDERAL COURT COUR FÉDÉRALE	
NOV 13 2020	
REBECCA DUONG	
FILED	DEPOSE
TORONTO, ON	

Plaintiff

- and -

OLIN CORPORATION, K.A. STEEL CHEMICALS, INC., OLIN CANADA ULC,
3229897 NOVA SCOTIA CO., OCCIDENTAL PETROLEUM CORPORATION,
OCCIDENTAL CHEMICAL CORPORATION, OXY CANADA SALES INC.,
WESTLAKE CHEMICAL CORPORATION, AXIALL CANADA, INC., SHIN-ETSU
CHEMICAL CO., LTD., SHINTECH INCORPORATED, FORMOSA PLASTICS
CORPORATION, FORMOSA PLASTICS CORPORATION, U.S.A.

Defendants

STATEMENT OF CLAIM

TO THE DEFENDANTS

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the plaintiff. The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or a solicitor acting for you are required prepare a statement of defence in Form 171B prescribed by the *Federal Court Rules*, serve it on the plaintiff's solicitor or, where the plaintiff does not have a solicitor, serve it on the plaintiff, and file it, with proof of service, at a local office of this Court, WITHIN THIRTY DAYS after this statement of claim is served on you, if you are served within Canada.

If you are served in the United States of America, the period for serving and filing your statement of defence is forty days. If you are served outside Canada and the United States of America, the period for serving and filing your statement of defence is sixty days.

Copies of the *Federal Court Rules*, information concerning the local offices of the Court and other necessary information may be obtained on request to the Administrator of this Court at Ottawa (telephone 613-992-4238) or at any local office.

IF YOU FAIL TO DEFEND THIS PROCEEDING, judgment may be given against you in your absence and without further notice to you.

ANIL KAMAL
REGISTRY OFFICER
AGENT DU GREFFE

Date: November 13, 2020

Issued by _____

(Registry Officer)

Address of court office 180 Queen Street West, Suite 200
Toronto, Ontario M5V 3L6

TO: OLIN CORPORATION
190 Carondelet Plaza, Suite 1530
Clayton, Missouri, USA 63105

AND TO: K.A. STEEL CHEMICALS, INC.
15185 Main Street, P.O. BOX 729
Lemont, Illinois, USA 60439

AND TO: OLIN CANADA ULC
675 Boulevard Alphonse-Deshaies,
Becancour, Quebec G9H 2Y8

AND TO: 3229897 NOVA SCOTIA CO.
1300-1969 Upper Water Street, Purdy's Wharf Tower II
Halifax, Nova Scotia B3J 3R7

AND TO: OCCIDENTAL PETROLEUM CORPORATION
5 Greenway Plaza, Suite 110
Houston, Texas, USA 77046

AND TO: OCCIDENTAL CHEMICAL CORPORATION
14555 Dallas Parkway, Suite 400
Dallas, Texas, USA 75254

AND TO: OXY CANADA SALES INC.
14555 Dallas Parkway, Suite 400
Dallas, Texas, USA 75254

AND TO: WESTLAKE CHEMICAL CORPORATION
2801 Post Oak Blvd., Suite 600
Houston, Texas, USA 77056

AND TO: AXIALL CANADA, INC.
Suite 3000, 1 Place Ville Marie
Montreal, Quebec H3B 4N8

AND TO: SHIN-ETSU CHEMICAL CO., LTD.
Asahi Seimei Otemachi Bldg., 6-1, Ohtemachi 2-chome,
Chiyoda-ku, Tokyo 100-0004, Japan

AND TO: SHINTECH INCORPORATED
3 Greenway Plaza, #1150
Houston, Texas, USA 77046

AND TO: FORMOSA PLASTICS CORPORATION
No. 100, Shuiguan Road, Renwu District
Kaohsiung City, Taiwan 814

AND TO: FORMOSA PLASTICS CORPORATION, U.S.A.
9 Peach Tree Hill Road
Livingston, New Jersey, USA 07039

CLAIM

DEFINED TERMS

1. In this Statement of Claim, in addition to the terms that are defined elsewhere herein, the following terms have the following meanings:
 - (a) “**Caustic Soda**”, also known as sodium hydroxide (NaOH) or lye, is a commodity chemical sold in solid and liquid forms;
 - (b) “**Class**” means all persons in Canada, except for the Excluded Persons, who purchased Caustic Soda during the Conspiracy Period;
 - (c) “**Class Member**” means any member of the “**Class**”;
 - (d) “*Federal Courts Act*” means the *Federal Courts Act*, RSC 1985, c F-7, any amendments thereto, prior applicable legislation in force, and applicable regulations thereunder;
 - (e) “*Federal Courts Rules*” means the *Federal Courts Rules*, SOR/98-106, as amended;
 - (f) “*Competition Act*” means the *Competition Act*, RSC 1985, c C-34, any amendments thereto, prior applicable legislation in force, and applicable regulations thereunder;
 - (g) “**Conspiracy Period**” means a period spanning from at least October 1, 2015 until the present; and

- (h) “**Excluded Persons**” means the Defendants and each Defendant’s past and present subsidiaries, affiliates, officers, directors, senior employees, partners, legal representatives, heirs, predecessors, successors, and assigns.

RELIEF SOUGHT

- 2. The Plaintiff claims on its own behalf and on behalf of other Class Members:
 - (a) an order certifying this action as a class proceeding and appointing the plaintiff as a representative plaintiff for the proposed Class;
 - (b) a declaration that the Defendants conspired and agreed with each other and their other unknown co-conspirators to raise, maintain, fix, and/or stabilize the price of Caustic Soda in North America and elsewhere during the Conspiracy Period;
 - (c) general damages and special damages at an amount to be determined at trial for loss and damage suffered because of conduct contrary to Part VI of the *Competition Act*;
 - (d) costs of the investigation and prosecution of this proceeding pursuant to section 36 of the *Competition Act*;
 - (e) pre-judgment interest and post-judgment interest, compounded, or pursuant to sections 36 and 37 of the *Federal Courts Act*;

- (f) the costs of notice and of administrating the plan of distribution of the recovery in this action, plus applicable taxes, pursuant to Rule 334.38 of the *Federal Courts Rules*; and
- (g) such further and other relief as this Honourable Court deems just.

NATURE OF THE ACTION

- 3. This action arises from a conspiracy to fix, raise, maintain, and/or stabilize prices of Caustic Soda sold in North America and worldwide.
- 4. During the Conspiracy Period, the Defendants, their co-conspirators, and their senior executives participated in illegal and secretive meetings and made agreements relating to the prices, market share divisions, and production levels for Caustic Soda. The Defendants and their co-conspirators were aware and intended that the alleged conspiracies would result in increased prices for Caustic Soda.

WHAT IS CAUSTIC SODA?

- 5. Caustic Soda is used by customers in a variety of industries, including paper, pulp and cellulose; chemical production; soaps and detergents; aluminum; food processing; water treatment; textiles; mineral oils; recycling; and pharmaceuticals.
- 6. Caustic Soda is produced as a co-product of chlorine production from the electrolysis of brine or salt water; an industrial process known as the “chloralkali process” (also known as the “chlor-alkali process” or “chlor alkali process”).

Collectively, chlorine and sodium hydroxide are referred to as “chlor alkalis” (also known as the “chlor-alkalis” or “chloralkalis”).

7. There are two types of Caustic Soda: “membrane-grade” Caustic Soda and “diaphragm-grade” Caustic Soda. Most Caustic Soda in North America is produced via the membrane process. Membrane and diaphragm grades are functionally interchangeable, even though diaphragm grades are also known as “standard” grades because they are suitable for use in most applications.

THE PLAINTIFF

8. The Plaintiff, Topher’s Beard Company, is a sole proprietorship owned and operated by Christopher Makkreel pursuant to the laws of the Province of Ontario, with its principal place of business located in Brantford, Ontario. At all material times, Topher’s Beard Company carried on business as a manufacturer and retailer of haircare and bath products.
9. Throughout the Conspiracy Period, Topher’s Beard Company purchased in Canada, on its own behalf or through its agents, Caustic Soda for use in the manufacture of soaps and other bath products.

THE DEFENDANTS

10. Where a particular entity within a corporate family of Defendants engaged in anti-competitive conduct, it did so on behalf of all entities within that corporate family. The individual participants in the conspiratorial meetings and discussions entered into agreements on behalf of, and reported these meetings and discussions to, their respective corporate families. The Defendants named herein are jointly and

severally liable for the actions of, and damages allocable to, all members of their respective corporate families.

Olin Defendants

11. Olin Corporation is an American company with a principal place of business in Clayton, Missouri. During the Conspiracy Period, Olin Corporation manufactured, marketed, sold, and/or distributed Caustic Soda that was sold throughout Canada, either directly or indirectly, through the control of its predecessors, affiliates, and/or subsidiaries.
12. K.A. Steel Chemicals, Inc. ("K.A.") is an American company with a principal place of business in Lemont, Illinois. K.A. is a wholly owned subsidiary of Olin Corporation. During the Conspiracy Period, K.A. manufactured, marketed, sold, and/or distributed Caustic Soda that was sold throughout Canada, either directly or indirectly, through the control of its predecessors, affiliates, and/or subsidiaries.
13. Olin Canada ULC ("Olin Canada") is a Canadian company with a principal place of business in Montreal, Quebec. Olin Canada is owned directly or indirectly by Olin Corporation. During the Conspiracy Period, Olin Canada manufactured, marketed, sold, and/or distributed Caustic Soda that was sold throughout Canada, either directly or indirectly, through the control of its predecessors, affiliates, and/or subsidiaries.
14. 3229897 Nova Scotia Co. ("3229897") is a Canadian company with a principal place of business in Becancour, Quebec. 3229897 is owned directly or indirectly by Olin Corporation. During the Conspiracy Period, 3229897 manufactured,

marketed, sold, and/or distributed Caustic Soda that was sold throughout Canada, either directly or indirectly, through the control of its predecessors, affiliates, and/or subsidiaries.

15. The business of each of Olin Corporation, K.A, Olin Canada, and 3229897 (collectively, the “Olin Defendants” or “Olin”) is inextricably interwoven with that of the other and each is the agent of the other for the purposes of the manufacture, market, sale, and/or distribution of Caustic Soda in Canada and for the purposes of the conspiracy described herein.

Occidental Defendants

16. Occidental Petroleum Corporation (“Occidental Petroleum”) is an American company with a principal place of business in Houston, Texas. During the Conspiracy Period, Occidental Petroleum manufactured, marketed, sold, and/or distributed Caustic Soda that was sold throughout Canada, either directly or indirectly, through the control of its predecessors, affiliates, and/or subsidiaries.
17. Occidental Chemical Corporation (“Occidental Chemical”) is an American company with a principal place of business in Dallas, Texas. Occidental Chemical is a wholly owned subsidiary of Occidental Petroleum. During the Conspiracy Period, Occidental Chemical manufactured, marketed, sold, and/or distributed Caustic Soda that was sold throughout Canada, either directly or indirectly, through the control of its predecessors, affiliates, and/or subsidiaries.
18. Oxy Canada Sales Inc. (“Oxy Canada”) is an American company with a principal place of business in Dallas, Texas. Oxy Canada is owned directly or indirectly by

Occidental Petroleum. During the Conspiracy Period, Oxy Canada manufactured, marketed, sold, and/or distributed Caustic Soda that was sold throughout Canada, either directly or indirectly, through the control of its predecessors, affiliates, and/or subsidiaries.

19. The business of each of Occidental Petroleum, Occidental Chemical, and Oxy Canada (collectively, the “Occidental Defendants” or “Occidental”) is inextricably interwoven with that of the other and each is the agent of the other for the purposes of the manufacture, market, sale, and/or distribution of Caustic Soda in Canada and for the purposes of the conspiracy described herein.

Westlake Defendants

20. Westlake Chemical Corporation (“Westlake Chemical”) is an American company with a principal place of business in Houston, Texas. During the Conspiracy Period, Westlake Chemical manufactured, marketed, sold, and/or distributed Caustic Soda that was sold throughout Canada, either directly or indirectly, through the control of its predecessors, affiliates, and/or subsidiaries.
21. Axiall Canada, Inc. (“Axiall”) is a Canadian company with a principal place of business in Beauharnois, Quebec. Axiall is owned directly or indirectly by Westlake Chemical. During the Conspiracy Period, Axiall manufactured, marketed, sold, and/or distributed Caustic Soda that was sold throughout Canada, either directly or indirectly, through the control of its predecessors, affiliates, and/or subsidiaries.

22. The business of each of Westlake and Axiall (collectively, the “Westlake Defendants” or “Westlake”) is inextricably interwoven with that of the other and each is the agent of the other for the purposes of the manufacture, market, sale, and/or distribution of Caustic Soda in Canada and for the purposes of the conspiracy described herein.

Shin Defendants

23. Shin-Etsu Chemical Co. Ltd. (“Shin-Etsu”) is a Japanese company with a principal place of business in Tokyo, Japan. During the Conspiracy Period, Shin-Etsu manufactured, marketed, sold, and/or distributed Caustic Soda that was sold throughout Canada, either directly or indirectly, through the control of its predecessors, affiliates, and/or subsidiaries.
24. Shintech Incorporated (“Shintech”) is an American company with a principal place of business in Houston, Texas. Shintech is a wholly-owned subsidiary of Shin-Etsu. During the Conspiracy Period, Shintech manufactured, marketed, sold, and/or distributed Caustic Soda that was sold throughout Canada, either directly or indirectly, through the control of its predecessors, affiliates, and/or subsidiaries.
25. The business of each of Shin-Etsu and Shintech (collectively, the “Shin Defendants” or “Shin”) is inextricably interwoven with that of the other and each is the agent of the other for the purposes of the manufacture, market, sale, and/or distribution of Caustic Soda in Canada and for the purposes of the conspiracy described herein.

Formosa Defendants

26. Formosa Plastics Corporation (“Formosa Plastics”) has a principal place of business in Kaohsiung City, Taiwan. During the Conspiracy Period, Formosa Plastics manufactured, marketed, sold, and/or distributed Caustic Soda that was sold throughout Canada, either directly or indirectly, through the control of its predecessors, affiliates, and/or subsidiaries.
27. Formosa Plastics Corporation, U.S.A. (“Formosa U.S.A.”) has a principal place of business in Livingston, New Jersey. Formosa U.S.A. is a wholly-owned subsidiary of Formosa Plastics. During the Conspiracy Period, Formosa U.S.A. manufactured, marketed, sold, and/or distributed Caustic Soda that was sold throughout Canada, either directly or indirectly, through the control of its predecessors, affiliates, and/or subsidiaries.
28. The business of each of Formosa Plastics and Formosa U.S.A. (collectively, the “Formosa Defendants” or “Formosa”) is inextricably interwoven with that of the other and each is the agent of the other for the purposes of the manufacture, market, sale, and/or distribution of Caustic Soda in Canada and for the purposes of the conspiracy described herein.

Unnamed Co-Conspirators

29. Various persons, partnerships, sole proprietors, firms, corporations, and individuals not named as Defendants in this lawsuit (collectively, the “Unnamed Co-Conspirators”), the identities of which are not presently known, may have participated as co-conspirators with the Defendants in the unlawful conspiracy

alleged in this statement of claim, and have performed acts and made statements in furtherance of the unlawful conduct.

Joint and Several Liability

30. The Defendants named herein are jointly and severally liable for the actions of, and damages allocable to, co-conspirators, including the other named Defendants and Unnamed Co-Conspirators.

CHARACTERISTICS OF THE CAUSTIC SODA INDUSTRY

31. The Caustic Soda industry has several characteristics that served to facilitate the conspiracy alleged herein.

Market Concentration

32. During the Conspiracy Period, the Defendants controlled a significant share of the Caustic Soda market, both in Canada and internationally. Collectively, the Defendants are the major producers and suppliers of Caustic Soda in North America. They are also among the largest producers in the world. For example, Olin, Occidental, and Westlake are the three largest manufacturers of chlor alkalis in the Americas and own over 81% of the large chlor alkali plants in the US and Canada. Given the concentration in the market, it would have been difficult for the proposed Class to avoid the effects of the Defendants' conspiracy.

Barriers to Entry

33. The market for the manufacture of Caustic Soda is subject to high barriers to entry. For a prospective Caustic Soda manufacturer, setting up competitive manufacturing and supply chain operations is an enormous financial and logistic

hurdle, which requires building plants, acquiring the necessary production technology, obtaining regulatory permissions, hiring and retaining skilled and knowledgeable employees, and securing the raw materials and supply chain commitments necessary to manufacture competitive grades. These costs could be billions of dollars. These barriers to entry make it less likely that new competitors will enter the Caustic Soda market and undercut the Defendants' cartel prices.

Interchangeability of Commodity Products

34. Caustic Soda is a commodity chemical. Similar grades sold by the Defendants are mutually interchangeable. For example, every Defendant makes and sells 50% Caustic Soda Solution, or a liquid 50% grade. It consists of 49-51% sodium hydroxide (Caustic Soda), 49-51% water, and ~1% sodium chloride. As a result, price is the primary factor driving customer choice between Caustic Soda of the different manufacturers and is the most important competitive factor for manufacturers of Caustic Soda.

Demand Inelasticity

35. The demand for Caustic Soda is relatively inelastic. Caustic Soda is consumed by a wide variety of customers in many different end-markets. The closest comparable chemical product to Caustic Soda, soda ash aka sodium carbonate (Na_2CO_3), is not believed to be a viable substitute for Caustic Soda. Though both compounds are sodium derivatives, they have unique and different classifications with soda ash being a weak chemical base and Caustic Soda having much stronger basicity. In the absence of a viable substitute, when Defendants increased prices

during the Conspiracy Period, all or nearly all customers paid all or a portion of the increases.

Trade Associations

36. The Caustic Soda industry is served by several major trade organizations that hold industry-wide meetings several times a year. These meetings facilitated collusion, and the trade associations have themselves functioned as a means by which the conspiracy was effectuated and implemented. Most or all of the Defendants (or their affiliates) are members of the following associations: American Fuel & Petrochemical Manufacturers, The Chlorine Institute, The Vinyl Institute, Association of Chemical Industry of Texas, Texas Chemical Council, Louisiana Chemical Association, and the European Petrochemical Association.

37. During the Conspiracy Period, these organizations held multiple meetings and conferences attended by at least some Defendants and Unnamed Co-Conspirators. These meetings and conferences and other industry events attended by representatives of all or most of the Defendants, including industry association conferences organised by ICIS (Independent Commodity Intelligence Services), Tecnon OrbiChem, and IHS Markit, provided the Defendants and Unnamed Co-Conspirators with the opportunity to meet, discuss, and agree upon the pricing of Caustic Soda.

PRICES DURING THE CONSPIRACY PERIOD

38. The Defendants and Unnamed Co-Conspirators' illegal price-fixing conspiracy resulted in artificially increased prices for Caustic Soda. This was accomplished

by preventing the decline of Caustic Soda prices, stabilizing Caustic Soda prices, and/or increasing Caustic Soda prices. It was also accomplished by reducing the supply of Caustic Soda. But for the illegal price-fixing conspiracy, the price of Caustic Soda would have been significantly lower, would have declined faster, would not have been stable, and/or would not have increased in the manner that it did.

39. During the Conspiracy Period, the Defendants jointly controlled a substantial portion of the Caustic Soda market. The manufacturers of Caustic Soda who were not participants in the conspiracy (“Non-Cartel Firms”) constituted a very small share of the market and lacked the ability to increase production of Caustic Soda to a degree that would have allowed them to steal market share from the Defendants in response to the Defendants’ higher prices.
40. The Defendants’ high market share, combined with high barriers to entry, commodity-like products, and the capacity constraints of Non-Cartel Firms, meant that the Defendants had market power and were able to increase Caustic Soda prices above the competitive level during the Conspiracy Period.
41. Relying on the higher prices set by Defendants, Non-Cartel Firms were able to, and did, maximize their profits by charging higher prices for Caustic Soda than they would have in a competitive market. The Non-Cartel Firms’ conduct in charging higher prices was a direct response to the higher Caustic Soda prices caused by the Defendants’ collusive conduct and exercise of their collective market power. But for the conspiracy, the Defendants would have charged lower,

competitive prices, and Non-Cartel Firms would have needed to follow those lower prices or risk losing market share.

42. During the Conspiracy Period, persons who directly or indirectly purchased Caustic Soda manufactured by Non-Cartel Firms (“Umbrella Purchasers”) suffered damages measured as the difference between the actual prices paid by them and the “but for” prices that would have obtained in a competitive market.
43. The Defendants were aware and intended that the alleged conspiracy would result in Non-Cartel Firms adjusting their prices to supra-competitive levels in response to the conspiracy prices, and that Umbrella Purchasers would therefore pay supra-competitive prices for Caustic Soda during the Conspiracy Period.

THE CONSPIRACY

44. During the Conspiracy Period, the Defendants and Unnamed Co-Conspirators conspired, agreed, or arranged with each other to fix, maintain, increase, and/or control the prices for the supply of Caustic Soda sold to customers in North America and elsewhere. The conspiracy was intended to, and did, cause the Plaintiff and other Class Members to pay enhanced/supra-competitive prices for Caustic Soda.
45. During the Conspiracy Period, senior executives and employees of the Defendants and Unnamed Co-Conspirators, acting in their capacities as agents for the Defendants and Unnamed Co-Conspirators, engaged in communications, conversations, and meetings with each other at times and places, some of which are unknown to the Plaintiff, and as a result of the communications and meetings,

the Defendants and Unnamed Co-Conspirators unlawfully conspired and/or agreed to:

- (a) fix, maintain, increase, or control the prices for the supply of Caustic Soda in North America and elsewhere, including prices for intra-company sales if and where applicable;
- (b) fix, maintain, control, prevent, lessen, or eliminate the production or supply of Caustic Soda in North America and elsewhere;
- (c) participate in meetings, conversations, and communications with respect to the price of Caustic Soda;
- (d) refrain from competing on prices for Caustic Soda;
- (e) exchange information in order to monitor and enforce adherence to the agreed-upon prices for Caustic Soda; and
- (f) allocate sales, territories, customers, or markets for the production or supply of Caustic Soda that each Defendant and Unnamed Co-conspirator would supply in North America and elsewhere.

46. In furtherance of the conspiracy, during the Conspiracy Period, the Defendants, the Unnamed Co-Conspirators, and their servants and agents:

- (a) fixed, maintained, increased, or controlled the prices of Caustic Soda in North America and elsewhere;

- (b) allocated sales, territories, customers, or markets for the production or supply of Caustic Soda among themselves in North America and elsewhere;
- (c) fixed, maintained, controlled prevented, lessened, or eliminated the production or supply of Caustic Soda in North America and elsewhere;
- (d) intended that the conspiracy would enhance unreasonably the price of Caustic Soda;
- (e) communicated secretly, in person, by telephone, or electronically, to discuss and fix prices and volumes of sales of Caustic Soda;
- (f) exchanged information regarding the prices and volumes of sales of Caustic Soda for the purposes of monitoring and enforcing adherence to the agreed-upon prices, volumes of sales, customers, and markets;
- (g) agreed to idle capacity in order to restrict supplies of Caustic Soda;
- (h) took active steps to, and did, conceal the unlawful conspiracy from their customers; and
- (i) disciplined any corporation that failed to comply with the conspiracy.

47. The Canadian subsidiaries of the foreign Defendants and Unnamed Co-Conspirators participated in and furthered the objectives of the conspiracy by knowingly modifying their competitive behaviour in accordance with instructions

received from their respective parent companies and thereby acted as agents in carrying out the conspiracy and are liable for such acts.

48. The acts alleged in this claim to have been done by each corporate Defendant were authorized, ordered, and done by each corporate Defendant's officers, directors, agents, employees, or representatives while engaged in the management, direction, control, or transaction of its business affairs.

Breaches of Part VI of the *Competition Act*

49. The conduct described in paragraphs 44-48 above constitutes offences under Part VI of the *Competition Act*, in particular section 45(1) of the *Competition Act*. The Plaintiff claims loss and damage under section 36(1) of the *Competition Act* in respect of such unlawful conduct.
50. Further or alternatively, the subsidiaries of the foreign Defendants that carried on business in Canada implemented a directive, instruction, intimation of policy, or other communication from their related entities identified herein, which communication was for the purpose of giving effect to a conspiracy, combination, agreement, or arrangement entered into outside of Canada that, if entered into in Canada, would have been in contravention of section 45(1). The subsidiaries of the foreign Defendants that carried on business in Canada therefore acted in contravention of section 46(1) of the *Competition Act* and are liable to the Plaintiff and other Class Members pursuant to section 36(1) of the *Competition Act*.

DAMAGES

51. During the Conspiracy Period, the Plaintiff and the Class Members made purchases in Canada of Caustic Soda.
52. The Plaintiff and other Class Members have suffered the following damages as a result of the conspiracy alleged herein:
 - (a) price competition has been restrained and/or eliminated with respect to Caustic Soda sold directly or indirectly to the Plaintiff and other Class Members in Canada;
 - (b) the prices of Caustic Soda sold directly or indirectly to the Plaintiff and other Class Members in Canada have been fixed, maintained, increased, and/or controlled at artificially inflated levels; and
 - (c) the Plaintiff and other Class Members have been deprived of free and open competition for Caustic Soda in Canada.
53. By reason of the wrongful conduct alleged herein, the Plaintiff and other Class Members have sustained losses by virtue of having paid higher prices for Caustic Soda than they would have paid in the absence of the illegal conduct of the Defendants and Unnamed Co-conspirators. As a result, the Plaintiff and other Class Members have suffered loss and damage in an amount not yet known but to be determined.
54. The Plaintiff's damages and those of other Class Members have been suffered in Canada.

RELEVANT STATUTES

55. The Plaintiff pleads and relies on the *Federal Courts Act*, the *Competition Act*, and the *Federal Courts Rules*.

PLACE OF TRIAL

56. The Plaintiff proposes that this action be tried at Toronto, Ontario.

November 13, 2020

Linda Visser

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